IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3562 of 1989

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LEKHANBHAI DHANOMAL DATWANI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3562 of 1989

MR PS CHAMPANERI for Petitioner No. 1

MR AY KOGJE, AGP for Respondent No. 1,3

MR HS MUNSHAW for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/07/2004

ORAL JUDGEMENT

By filing this petition, the petitioner has challenged his termination order passed by the Deputy District Development Officer, District Panchayat,

Ahmedabad dated 19-05-1989, by which his services have been terminated for not passing pre-service training examination in three trials. The said order is at Annexure-C to this petition.

2) The petitioner has contended that at the time of appointment, no such condition was incorporated in the appointment order. He submitted that, in any case, he has not completed three trials for passing examination, as he was not aware about the date of examination.

3) While admitting this matter on 26th March, 1990, the learned Single Judge of this Court gave mandatory interim relief in favour of the petitioner, on the ground that the petitioner was not informed about the date of examination and, therefore, it cannot be said that the petitioner has not cleared the examination within the stipulated trials.

4) Today, at the time of hearing of this matter, Mr.Munshaw, learned advocate has produced a fax message dated 08-07-2004 received from District Development Officer, Ahmedabad, which is kept on record. As per the said fax message, the petitioner has already passed the pre-service training examination on 22nd November, 1991.

5) Therefore, now nothing further is required to be done in this matter, except setting aside the order of termination. Under these circumstances, the order of termination of services of the petitioner is quashed and set aside. The effect of this order would be that the services of the petitioner will be treated to be continuous althroughout.

6) In view of what is stated above, this petition is allowed. Rule is made absolute with no order as to costs.

(P.B.Majmudar,J.)
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